

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL MILAM,
Plaintiff,

v.

PIERCE COUNTY,
Defendant.

CASE NO. C04-5672RBL

ORDER ADOPTING REPORT
AND RECOMMENDATION
AND DENYING SUBSEQUENT
MOTIONS

This matter is before the Court on the Report and Recommendation of Judge Karen L. Strombom, United States Magistrate Judge [Dkt. #12], the Plaintiff's "Motion to Proceed to Trial" [Dkt. #13]; and the Plaintiff's Motion to Amend his Habeas Corpus Petition to name Pierce County as "person." [Dkt. #14]. The latter two Motions are apparently filed in Response to the R&R's recommendation that the Plaintiff's case be dismissed without prejudice for failing to name the Petitioner's custodian. Plaintiff has continued to fail to name his custodian, and adding the words "a person" after Pierce County does not remedy the defect. The Court does hereby find and ORDER:

- (1) The Court ADOPTS the Report and Recommendation [Dkt. #12] and the Plaintiff's complaint is dismissed WITHOUT PREJUDICE;
- (2) The Plaintiff's Motion to Proceed to Trial [Dkt. #13] is DENIED;
- (3) The Plaintiff's Motion to Amend [Dkt. #14] is DENIED as futile and untimely;

1 (4) The Clerk is directed to send copies of this Order to plaintiff's counsel, defendant's counsel
2 and Magistrate Judge Karen L. Strombom.
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4 DATED this 4th day of May, 2005.

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6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE
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